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Supreme Court, U.S.
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No. 05-1636

In The

Supreme Court of the United States

ARTHUR O. ARMSTRONG,

Petitioner,

v.

J. C. HOWELL, et al.,

Respondents.

On Petition For A Writ Of Certiorari
For The United States Court Of Appeals
For The Fourth Circuit

Petition For Rehearing

Arthur O. Armstrong
8113 Pleasant Hill Road
Elm City, North Carolina 27822
(252) 236-7912

Counsel for Petitioner

QUESTIONS PRESENTED

1. Whether the district court Judge, W. Earl Britt, erred when he denied plaintiff's motion for leave to file motion for reconsideration.

2. Was the plaintiff denied due process of law when United States District Court Judge, W. Earl Britt, denied plaintiff's leave to file motion for reconsideration?

SUPREME COURT OF THE UNITED STATES

ARTHUR O. ARMSTRONG : NO. 05-1636
:
vs. :
:
J. C. HOWELL, et al :

PETITION FOR REHEARING

TO: THE HONORABLE SUPREME COURT OF THE UNITED STATES:

Petitioner, Arthur O. Armstrong, respectfully petitions the Court for Rehearing pursuant to Court Rule 44.2 to review the Order and Decree of Judge W. Earl Britt, dated: December 16, 2005. The Order and Decree appealed from is described as follows:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ARTHUR O. ARMSTRONG :
:
v. : ORDER
:
J. C. HOWELL, et al :

AND NOW this 16th day of December, 2005, upon consideration of plaintiff's motion for leave to file motion for Reconsideration and the Response of defendant, if any, it is hereby **ORDERED** and **DECREED** that plaintiff's motion be **GRANTED.**

BY THE COURT:

_____
W. Earl Britt, J.

FACTS

The plaintiff failed to perfect the appeal in submitting the motion for reconsideration without submitting the accompanying order which provides for the interlocutory order; thereby rendering the plaintiff's to the nonappealability of right of an interlocutory order granting plaintiff's motion.

Reasons Why Writ Should Issue

The interlocutory order makes it impractical for petitioner to proceed further in trial court; that irreparable harm will result to petitioner and will continue to result if petitioner's appeal is not perfected with the interlocutory order. Said Order and Decree directly involves a substantial question arising under the Fourth and Fourteenth Amendments to the Constitution of United States and under Article 1, Section 20 of the Constitution of the State of North Carolina, in that it deprives rights secured thereunder to the plaintiff by overruling plaintiff's assignment of error to the denial of his Motion for leave to file Motion for Reconsideration, thereby depriving plaintiff of his constitutional right not to be deprived of life, property, or liberty, without due process of law; nor be denied equal protection of the laws. This constitutional issue was timely raised in the trial tribunal by plaintiff's Motion for reconsideration prior to the trial of plaintiff.

WHEREFORE, petitioner respectfully

prays that this Court grants his petition for rehearing to review the Order/Decree above specified, upon error (Trial court committed reversible error in denying plaintiff's motion for leave to file motion for reconsideration.) assigned in the record on appeal constituted in accordance to the Federal Rules of Appellate Procedure.

Respectfully submitted this the 16th day of October, 2006.

/s/ Arthur O. Armstrong, Petitioner
Arthur O. Armstrong, Petitioner

AFFIDAVIT OF ARTHUR O. ARMSTRONG

I swear of affirm under penalty of perjury under United States laws that the within and foregoing statements are true and correct (28 U.S.C. §1746.)

October 16, 2006.

/s/ Arthur O. Armstrong, Petitioner
Arthur O. Armstrong, Petitioner

OF COUNSEL:

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